

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<b>Applicant(s):</b>	Barry et al.	<b>Conf. No.:</b>	6426
<b>Serial No.:</b>	10/087,679	<b>Art Unit:</b>	2178
<b>Filed:</b>	March 1, 2002	<b>Examiner:</b>	Stork, Kyle R.
<b>Title:</b>	SYSTEM AND METHOD FOR DEVELOPING A WEBSITE	<b>Docket. No.:</b>	END920010124US1 (IBME-0037)

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Sir:

Applicants respectfully request a panel of experienced examiners perform a detailed review of appealable issues for the above-identified patent application pursuant to the Pre-Appeal Brief Conference Pilot Program. Applicants submit that the above-identified application is not in condition for appeal because the Office has failed to establish a prima facie case of obviousness based on an error in facts. Claims 1-29 are pending in this application.

Turning to the rejection, in the Final Office Action, In the Office Action, claims 1, 4, 7-8, 16, 22, 25 and 28 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Adobe GoLive 5.0 User Guide, (published 2000), hereinafter, "Adobe," in view of Mueller *et al.* (U.S. Patent No. 6,009,398), hereinafter "Mueller," further in view of Boehne *et al.* (U.S. Patent No. 6,434,500), hereinafter, "Boehne." Claims 2, 23 and 29 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Adobe in view of Mueller and Boehne and further in view of Yen *et al.* (U.S. Patent No. 6,724,918 B1), hereinafter "Yen." Claims 3 and 24 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Adobe in view of Mueller

and Boehne and further in view of Stern (U.S. Patent No. 6,724,918), hereinafter "Stern." Claims 5 and 26 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Adobe in view of Mueller and Boehne and further in view of Busch *et al.* (U.S. Patent No. 6,656,050 B2), hereinafter "Busch," and further in view of Daberkö (U.S. Patent No. 5,787,445), hereinafter "Daberkö." Claims 6 and 27 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Adobe in view of Mueller and Boehne and further in view of Helgeson *et al.* (U.S. Patent No. 6,643,652 B2), hereinafter Helgeson. Claim 9 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Adobe in view of Boehne. Claims 10-11, 16-17 and 20 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Adobe in view of Boehne and Helgeson. Claims 12 and 18 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Adobe in view of Boehne, Helgeson, Mueller and Yen. Claims 13-14 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Adobe in view of Boehne, Helgeson, Mueller, Yen, and Stern. Claim 21 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Adobe in view of Boehne, Helgeson, Busch, and Daberkö.

Applicants submit that these rejections are clearly not proper and without basis because at least one claim limitation is not met by the combined features of the references cited by the Office. As argued in the December 19, 2006 Amendment, the cited references fail to teach or suggest each and every element of independent claim 1. In particular, the cited references fail to teach or suggest, *inter alia*, a content system for providing content for web pages of the website, wherein the web pages have defined categories into which the content is arranged, each category being defined based on a type of content information. December 19, 2006 Amendment, page 14, final paragraph through page 15, first full paragraph. In contrast, the panes in the primary site window of Adobe that the Office equates with this feature of the claimed invention each display

the same type of information, i.e., data files, and, as such are not divided by the type of content information that is displayed in the panes. In addition, Adobe's primary site window does not contain content information, e.g., local news, national news, sports news, business news, etc, as do the web pages of the claimed invention. Furthermore, the primary site window of Adobe is a pop-up interface window and not a web site. Thus, Adobe GoLive does not teach the content system of the claimed invention.

As further argued in the December 19, 2006 Amendment, Mueller fails to teach or suggest a breadcrumb system for specifying whether breadcrumb code is inserted into the web pages. Page 16, first and second paragraphs. In contrast, the system of Mueller is not used to create a calendaring system in a website development environment, but merely illustrates a website having such a system. Similarly, the feedback system of Boehne, which the Office equates with the feedback system of the claimed invention, does not provide a developer of a website a way to define a feedback mechanism for the website, but simply illustrates a website having such a system. Thus, the systems for developing the calendaring, breadcrumb and feedback systems of the claimed invention are not taught by the Adobe, Mueller and Boehne references.

Accordingly, the Office has failed to state a prima facie case of obviousness, and this application is not in condition for appeal and should either be allowed as is, or re-opened for further prosecution.

With respect to the rejections of independent claims 9, 16, 22 and 29, Applicants note that each claim includes a feature similar in scope to the writing to the web page source file of claim 1. Further, the Office relies on the same arguments and interpretations of the cited references as discussed above with respect to claim 1. To this extent, Applicants herein

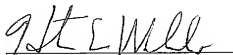
incorporate the arguments presented above with respect to claim 1, and respectfully request withdrawal of the rejections of these claims for the above-stated reasons.

The dependent claims are believed to be allowable based on the above arguments regarding the claims from which they depend, as well as for their own additional features.

With further regard to the rejection as a whole, in the December 19, 2006 Amendment, Applicants note that the Office's rejection of independent claim 1 seeks to combine three different references that each operate in a distinct operating environment to support its obviousness rejection, and up to five references for other claims. For example, the Adobe references describe features that operate only in a specific Adobe environment while the other references perform their functions in various custom and non-Adobe environments. To this extent, it is unclear whether the other references would function correctly if placed in the Adobe environment, whether Adobe would function correctly if placed in the custom environments of the other references or whether the alleged ability of Adobe to enable a non-programmer to develop a web site could be extended to the other references to allow a developer to develop all of the mechanisms of the claimed invention without a need for knowledge of web-based programming. As such, Applicants submit that it is unfathomable how the Office can maintain its contention that there is motivation or suggestion in the references themselves or elsewhere to combine such diverse references. This is further accentuated by the fact that each of the references performs a vastly different task. Thus, Applicants contend that the Office's combination of references is based upon hindsight resulting from the teachings of the claimed invention and not from any teaching or suggestion in the references themselves or in the art.

Applicants respectfully submit that the application is not in condition for appeal. Should the examining panel believe that anything further is necessary to place the application in better condition for allowance or for appeal, they are requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "H. E. Webb", is written over a horizontal line.

Hunter E. Webb  
Reg. No.: 54,593

Date: July 16, 2007

Hoffman, Warnick & D'Alessandro LLC  
75 State Street, 14<sup>th</sup> Floor  
Albany, New York 12207  
(518) 449-0044  
(518) 449-0047 (fax)

RAD/hew